

Message Text

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ACTION L-03

INFO OCT-01 EUR-12 ISO-00 OES-03 EB-07 DODE-00 PM-04 NRC-05

ERDA-05 ACDA-05 OMB-01 COME-00 CG-00 DLOS-04 DOTE-00

FMC-01 OFA-01 CIAE-00 H-02 INR-07 NSAE-00 NSC-05

PA-01 PRS-01 SP-02 SS-15 USIA-06 /091 W

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R 290802Z OCT 75

FM AMEMBASSY THE HAGUE

TO SECSTATE WASHDC 6899

AMEMBASSY BONN

AMEMBASSY LONDON

INFO AMEMBASSY BRUSSELS

C O N F I D E N T I A L THE HAGUE 5476

FROM OXMAN

E.O. 11652: GDS

TAGS: MNUC, TECH

SUBJECT: BRUSSELS CONVENTION ON LIABILITY OF OPERATORS OF NUCLEAR
SHIPS

REF: STATE 234951

1. SUMMARY: DUTCH WILL SEEK CABINET CONSIDERATION OF WARSHIP
RESERVATION TO SUBJECT CONVENTION AFTER BONN MEETING FRIDAY, AND
ARE NOT RPT NOT PREPARED TO COMMIT THEMSELVES BEFOREHAND. THEY
WERE NOT ENCOURAGING. END SUMMARY

2. DEPT ASST LEGAL ADVISER OXMAN AND EMBOFF MET WITH MFA LEGAL
ADVISER RIPHAGEN AND MFA DIRECTOR OF COUNCIL OF EUROPE AND SCIEN-
TIFIC COOPERATION KRUYT OCT 28 TO DISCUSS SCENARIO REGARDING WAR-
SHIP RESERVATION TO BRUSSELS CONVENTION ON NUCLEAR SHIPS. WE
INDICATED OUR DESIRE FOR POSITIVE COMMUNICATION FROM GON TO
BELGIAN GOVT REGARDING ACCEPTANCE FRG RATIFICATION WITH WARSHIP
RESERVATION. RIPHAGEN SAID THIS RAISES POLITICAL PROBLEMS, AND
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THAT THE OPTIONS, INCLUDING POSSIBLE DUTCH OBJECTION TO FRG RESER-

VATION, WOULD HAVE TO BE PRESENTED TO THE CABINET AFTER THE BONN MEETING. THERE WAS NO CHANCE OF GETTING A DECISION BEFORE THE MEETING. KRUYT ALSO INDICATED THAT CONSULTATIONS WITH PARLIAMENT MIGHT BE NECESSARY. HE NOTED THAT, IN PRESENTING CONVENTION TO PARLIAMENT, GON HAD EXPLAINED ITS UTILITY IN TERMS OF ITS APPLICATION TO WARSHIPS. ON THE OTHER HAND, HE FELT THAT ARGUMENT THAT WARSHIP EXCLUSION LEFT PORT STATE WITH GREATER POLITICAL FLEXIBILITY MIGHT BE USEFUL WITH PARLIAMENT. KRUYT AND MANS GEESTERANUS, ASST LEGAL ADVISER, WILL ATTEND BONN MEETING.

3. RIPHAGEN DID NOT RPT NOT CONTEST ARGUMENT THAT WARSHIP RESERVATION IS COMPATIBLE WITH OBJECT AND PURPOSE OF BRUSSELS CONVENTION, ALTHOUGH HE DID NOT COMMIT HIMSELF. HE ALSO SEEMED GENERALLY TO BE WILLING TO HAVE VIENNA CONVENTION ON LAW OF TREATIES APPROACH APPLIED; SPECIFICALLY, AT NO TIME DID HE SUGGEST THAT POSITIVE ACT OF ACCEPTANCE BY ONE OR ALL PARTIES OF THE RESERVATION WOULD BE NECESSARY. HE SEEMED PREPARED TO GO ALONG WITH BELGIAN CIRCULATION OF RATIFICATION AND RESERVATION WITHOUT RPT WITHOUT A REQUEST FOR COMMENT OR APPROVAL. ON THE OTHER HAND, AS A MATTER OF PRINCIPLE, HE WAS NOT RPT NOT PREPARED TO HAVE BELGIAN GOVT AS DEPOSITARY ISSUE NOTICE THAT CONVENTION ENTERS INTO FORCE BY VIRTUE OF GERMAN RATIFICATION WITH WARSHIP RESERVATION IN THE ABSENCE OF INDICATION THAT AT LEAST ONE PARTY HAD ACCEPTED FRG AS A PARTY OR THAT 12-MONTH WAITING PERIOD HAD PASSED. HE ALSO NOTED POSSIBLE DUTCH OPTION UNDER VIENNA CONVENTION OF OBJECTING TO THE RESERVATION BUT NOT RPT NOT OBJECTING TO FRG BECOMING A PARTY VIS-A-VIS THE NETHERLANDS. HE SAID THIS WOULD MEAN THAT WARSHIP PROVISIONS WERE NOT IN EFFECT AS BETWEEN GON AND FRG, THUS PRODUCING THE SAME RESULT, AND SOME OF THE SAME DOMESTIC POLITICAL PROBLEMS, AS GON SILENCE OR POSITIVE ACCEPTANCE. WE EXPLAINED DIFFICULTIES GON OBJECTION WOULD RAISE FOR ENTIRE SCENARIO.

4. UNLESS DEPT PERCEIVES OBJECTION, RECOMMEND AMEMBS BONN AND LONDON BRIEF HOST GOVERNMENTS ON CONVERSATION HERE AND STRESS OUR VIEW OF THE IMPORTANCE OF BRINGING GON ALONG. SINCE HIGH-LEVEL GON CONSIDERATION WILL FOLLOW BONN MEETING, FRG AND HMG SHOULD ATTEMPT TO PRESENT ARGUMENTS THAT COULD ENCOURAGE POSITIVE GON DECISION.

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